

June 14, 2000

Katherine A. England, Esq.
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

Re: **File No. SR-NASD-00-36**
Amendments to Options Rules

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Gary L. Goldsholle, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8104; e-mail gary.goldsholle@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Alden S. Adkins
Senior Vice President and
General Counsel

Enclosures

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”), the National Association of Securities Dealers, Inc. (“NASD” or “Association”), through its wholly owned subsidiary, NASD Regulation, Inc. (“NASD Regulation”), is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend NASD Rule 2860 to: (1) apply the NASD’s options position and exercise limits to members that effect trades for non-member brokers and non-member dealers; (2) require members to report the options positions that they effect for non-member brokers and non-member dealers where such positions meet the reporting thresholds under NASD rules; (3) codify an interpretative position with respect to which firms are required to report standardized options positions under the NASD’s options position reporting requirements; and (4) clarify that a member may have its clearing firm report options positions to the NASD.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

Rule 2860 Options.

* * *

(3) Position Limits

(A) Stock Options--Except in highly unusual circumstances, and with the prior written approval of the Association pursuant to the Rule 9600 Series for good cause shown in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer,

non-member broker, or non-member dealer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer, non-member broker, or non-member dealer, would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate equity options position in excess of:

* * *

(4) Exercise Limits

Except in highly unusual circumstances, and with the prior written approval of the Association pursuant to the Rule 9600 Series for good cause shown in each instance, no member or person associated with a member shall exercise, for any account in which such member or person associated with a member has an interest, or for the account of any partner, officer, director or employee thereof or for the account of any customer, non-member broker, or non-member dealer, any option contract if as a result thereof such member or partner, officer, director or employee thereof or customer, non-member broker, or non-member dealer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days a number of option contracts of a particular class of options in excess of the limits for options positions in paragraph (b)(3). The Association may institute other limitations concerning the exercise of option contracts from time to time by action of the Association. Reasonable notice shall be given of each new limitation fixed by the Association.

(5) Reporting of Options Positions

(A)(i)a. Conventional Options

Each member shall file or cause to be filed with the Association a report with respect to each account in which the member has an interest, each account of a partner, officer, director or employee or such member, and each customer, non-member broker, or non-member dealer account, which has established an aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index, combining for purposes of this subparagraph long positions in put options with short positions in call options and short positions in put options with long positions in call options.

b. Standardized Options

Each member that conducts a business in standardized options but is not a member of the options exchange upon which the standardized options are listed and traded shall file or cause to be filed with the Association a report with respect to each account in which the member has an interest, each account of a partner, officer, director or employee or such member, and each customer, non-member broker, or non-member dealer account, which has established an aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index, combining for purposes of this subparagraph long positions in put options with short positions in call options and short positions in put options with long positions in call options.

(ii) The reports required by this subparagraph [Such report] shall identify the person or persons having an interest in such account and shall identify separately the total number of option contracts of each such class comprising the reportable position in such account. The reports shall be in such form as may be prescribed by the Association and shall be filed no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this subparagraph, the member filing such shall file with the Association such additional periodic reports with respect to such account as the Association may from time to time prescribe.

* * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Directors of NASD Regulation at its meeting on May 17, 2000, which authorized the filing of the rule change with the SEC. The Nasdaq Stock Market has been provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries. The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on May 18, 2000. No other action by the NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the

NASD Board of Governors to adopt amendments to NASD Rules without recourse to the membership for approval.

The NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

(b) Questions regarding this rule filing may be directed to Gary L. Goldsholle, Associate General Counsel, NASD Regulation, Office of General Counsel, at (202) 728-8104.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The NASD's options position limits, exercise limits, and reporting requirements, Rules 2860(b)(3), 2860(b)(4) and 2860(b)(5), respectively, apply to any account in which a member, or any partner, officer, director or employee of the member has an interest, or for the account of any customer. However, because the NASD's definition of "customer" excludes a broker or dealer, non-member brokers and non-member dealers are currently outside the scope of these rules.¹ Thus, conventional options transactions² of a non-member broker or non-member dealer that are effected by an NASD member are not subject to any position and exercise limits or options reporting.³ To remedy this gap, NASD Regulation proposes amending its options position and

¹ Rule 0120(g) states that the term "customer" shall not include a broker or dealer.

² A "conventional option" is any option contract not issued, or subject to issuance, by the Options Clearing Corporation. NASD Rule 2860(b)(2)(N).

³ Standardized options transactions of a non-member are subject to position and exercise limits and reporting requirements of the applicable options exchange(s) on which the member of such exchange(s) effects the transaction. A "standardized option" is any options contract issued, or subject to issuance by, the Options Clearing Corporation that is not a FLEX Equity Option. NASD Rule 2860(b)(2)(WW).

exercise limits and reporting requirements to include accounts of non-member brokers and non-member dealers.

In addition, NASD Regulation proposes several technical amendments to the options position reporting requirements to take into account staff interpretive positions with respect to reporting standardized and conventional options. Specifically, the amendments codify the options position reporting requirements as set forth in Notice to Members 94-46, which state that the reporting requirements are “applicable to all standardized options positions established by ‘access’ firms or their customers and all conventional options positions established by members or their customers.” Access firms are defined as NASD members that conduct a business in exchange-traded options but are not themselves members of the options exchange upon which such options are listed and traded. Limiting reporting of standardized options positions under NASD rules to access firms only avoids imposing duplicative reporting requirements on NASD members who are also members of an options exchange, inasmuch as members of an options exchange (i.e., dual members) are required to report positions on standardized options pursuant to the rules of the options exchange(s) of which they are a member.

Finally, NASD Regulation proposes an amendment to clarify that, consistent with current practices, a member may report positions directly to the Association or have such positions reported to the Association by another firm, such as the member’s clearing firm. The amendment is accomplished by using the phrase “file or cause to be filed.” This amendment would not eliminate the member’s ultimate responsibility to ensure that the firm reporting the positions on the member’s behalf makes the necessary filings with the NASD.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that applying options positions and exercise limits and position reporting requirements to transactions effected by members for non-member brokers and non-member dealers preserves the integrity and effectiveness of position and exercise limits, and in that manner, promotes just and equitable principles of trade and protects investors and the public interest.

4. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

NASD Regulation does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD

Regulation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD REGULATION, INC.

BY: _____
Alden S. Adkins, Senior Vice President and
General Counsel

Date: June 14, 2000

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-00-36)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to Options Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the National Association of Securities Dealers, Inc. (“NASD”), through its wholly owned subsidiary, NASD Regulation, Inc. (“NASD Regulation”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SELF-REGULATORY ORGANIZATION’S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

NASD Regulation is proposing to amend Rule 2860 of the National Association of Securities Dealers, Inc. (“NASD” or “Association”), to: (1) apply the NASD’s options position and exercise limits to members that effect trades for non-member brokers and non-member dealers; (2) require members to report the options positions that they effect for non-member brokers and non-member dealers where such positions meet the reporting thresholds under NASD rules; (3) codify an interpretative position with respect to which firms are required to report standardized

options positions under the NASD's options position reporting requirements; and (4) clarify that a member may have its clearing firm report options positions to the NASD.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

Rule 2860 Options.

* * *

(3) Position Limits

(A) Stock Options--Except in highly unusual circumstances, and with the prior written approval of the Association pursuant to the Rule 9600 Series for good cause shown in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, non-member broker, or non-member dealer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer, non-member broker, or non-member dealer, would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate equity options position in excess of:

* * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(4) Exercise Limits

Except in highly unusual circumstances, and with the prior written approval of the Association pursuant to the Rule 9600 Series for good cause shown in each instance, no member or person associated with a member shall exercise, for any account in which such member or person associated with a member has an interest, or for the account of any partner, officer, director or employee thereof or for the account of any customer, non-member broker, or non-member dealer, any option contract if as a result thereof such member or partner, officer, director or employee thereof or customer, non-member broker, or non-member dealer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days a number of option contracts of a particular class of options in excess of the limits for options positions in paragraph (b)(3). The Association may institute other limitations concerning the exercise of option contracts from time to time by action of the Association. Reasonable notice shall be given of each new limitation fixed by the Association.

(5) Reporting of Options Positions

(A)(i)a. Conventional Options

Each member shall file or cause to be filed with the Association a report with respect to each account in which the member has an interest, each account of a partner, officer, director or employee or such member, and each customer, non-member broker, or non-member dealer account, which has established an aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index, combining for purposes of this subparagraph long positions in put

options with short positions in call options and short positions in put options with long positions in call options.

b. Standardized Options

Each member that conducts a business in standardized options but is not a member of the options exchange upon which the standardized options are listed and traded shall file or cause to be filed with the Association a report with respect to each account in which the member has an interest, each account of a partner, officer, director or employee or such member, and each customer, non-member broker, or non-member dealer account, which has established an aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index, combining for purposes of this subparagraph long positions in put options with short positions in call options and short positions in put options with long positions in call options.

(ii) The reports required by this subparagraph [Such report] shall identify the person or persons having an interest in such account and shall identify separately the total number of option contracts of each such class comprising the reportable position in such account. The reports shall be in such form as may be prescribed by the Association and shall be filed no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this subparagraph, the member filing such shall file with the Association such additional periodic reports with respect to such account as the Association may from time to time prescribe.

* * *

II. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE PURPOSE OF, AND STATUTORY BASIS FOR, THE PROPOSED RULE CHANGE

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The NASD's options position limits, exercise limits, and reporting requirements, Rules 2860(b)(3), 2860(b)(4) and 2860(b)(5), respectively, apply to any account in which a member, or any partner, officer, director or employee of the member has an interest, or for the account of any customer. However, because the NASD's definition of "customer" excludes a broker or dealer, non-member brokers and non-member dealers are currently outside the scope of these rules.³ Thus, conventional options transactions⁴ of a non-member broker or non-member dealer that are effected by an NASD member are not subject to any position and exercise limits or options reporting.⁵ To remedy this gap, NASD Regulation proposes amending its options position and

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⁴ A "conventional option" is any option contract not issued, or subject to issuance, by the Options Clearing Corporation. NASD Rule 2860(b)(2)(N).

⁵ Standardized options transactions of a non-member are subject to position and exercise limits and reporting requirements of the applicable options exchange(s) on which the member of such exchange(s) effects the transaction. A "standardized option" is any options contract issued, or subject to issuance by, the Options Clearing Corporation that is not a FLEX Equity Option. NASD Rule 2860(b)(2)(WW).

exercise limits and reporting requirements to include accounts of non-member brokers and non-member dealers.

In addition, NASD Regulation proposes several technical amendments to the options position reporting requirements to take into account staff interpretive positions with respect to reporting standardized and conventional options. Specifically, the amendments codify the options position reporting requirements as set forth in Notice to Members 94-46, which state that the reporting requirements are “applicable to all standardized options positions established by ‘access’ firms or their customers and all conventional options positions established by members or their customers.” Access firms are defined as NASD members that conduct a business in exchange-traded options but are not themselves members of the options exchange upon which such options are listed and traded. Limiting reporting of standardized options positions under NASD rules to access firms only avoids imposing duplicative reporting requirements on NASD members who are also members of an options exchange, inasmuch as members of an options exchange (i.e., dual members) are required to report positions on standardized options pursuant to the rules of the options exchange(s) of which they are a member.

Finally, NASD Regulation proposes an amendment to clarify that, consistent with current practices, a member may report positions directly to the Association or have such positions reported to the Association by another firm, such as the member’s clearing firm. The amendment is accomplished by using the phrase “file or cause to be filed.” This amendment would not eliminate the member’s ultimate responsibility to ensure that the firm reporting the positions on the member’s behalf makes the necessary filings with the NASD.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that applying options positions and exercise limits and position reporting requirements to transactions effected by members for non-member brokers and non-member dealers preserves the integrity and effectiveness of position and exercise limits, and in that manner, promotes just and equitable principles of trade and protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,
17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary